

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NICHOLAS MARTIN on behalf of himself and)	
others similarly situated,)	1:10-cv-3494
Plaintiff,)	
)	Judge Dow
v.)	Magistrate Judge Ashman
)	
CCH, INCORPORATED,)	JURY DEMANDED
Defendant.)	
)	

MOTION FOR LEAVE TO FILE EXHIBIT UNDER SEAL

Plaintiff respectfully requests that this Court permit him to file Exhibit F to his motion for Rule to Show Cause and for Sanctions under seal, or alternatively remove the confidential designation of this document. In support of this motion, plaintiff states:

1. This is a Telephone Consumer Protection Act, 47 U.S.C. §227(b) case alleging that the defendant tax preparation software company used its predictive dialer and a prerecorded message to deliver unsolicited advertisements to plaintiff and tens of thousands of other persons on their cellular telephones.

2. On October 13, 2011, plaintiff filed a motion for rule to show cause and for sanctions. Docket Item 89. Exhibit F to that motion is a document defendant CCH designated as confidential.

3. The document is 21 pages long, and sets out policies, practices and procedures for using CCH's predictive dialer, making backups from the dialer and generating reports from the dialer. CCH previously stated in a sworn interrogatory response (after plaintiff's motion to compel a response had been granted) that it had no "policies, practices or procedures relating to its dialer.

4. Plaintiff does not believe this document should have a confidential designation, and on October 14, 2011, challenged the confidentiality of the document with defense counsel.

5. Defense counsel has not responded to the request to remove the designation, most likely because this motion was filed soon after the request was made. Plaintiff will withdraw this motion if the parties can come to an agreement to the document's confidentiality. Confidential or not, though, the document is relevant to the sanctions motion, and plaintiff requests that he be granted leave to file it under seal until the confidentiality issue has been resolved.

6. Although the document was not included in the original electronic filing of this motion for rule to show cause and for sanctions, plaintiff has included it in the courtesy copy being delivered to Judge Ashman. In the courtesy copy, the footer of the document, which was only produced in native Word format, has been altered to include [Martin v. CCH, Inc. CONFIDENTIAL] so that there is no mistake as to what document has been designated confidential.

WHEREFORE, plaintiff respectfully request that this Court grant him leave to permit him to file Exhibit F to his motion for Rule to Show Cause and for Sanctions under seal, or alternatively remove the confidential designation of this document.

Respectfully submitted,

/s/Alexander H. Burke

Alexander H. Burke

BURKE LAW OFFICES, LLC

155 N. Michigan Ave., Suite 9020

Chicago, IL 60601

(312) 729-5288

(312) 729-5289 (fax)
ABurke@BurkeLawLLC.com

Gary Klein (*admitted pro hac vice*)
Shennan Kavanagh (*admitted pro hac vice*)
RODDY KLEIN & RYAN
727 Atlantic Avenue, 2nd Floor
Boston, MA 02111
(617) 357.5500
(617) 357.5030 (fax)
klein@roddykleinryan.com
kavanagh@roddykleinryan.com